

**MINUTES OF THE
SENATE JUDICIARY, LAW ENFORCEMENT & CRIMINAL JUSTICE
STANDING COMMITTEE**

Room 250, Utah State Capitol

February 9, 2015

Members Present: Sen. Mark B. Madsen, Chair
Sen. Luz Escamilla,
Sen. Gene Davis
Sen. Lyle W. Hillyard
Sen. Daniel W. Thatcher
Sen. Stephen H. Urquhart
Sen. Todd Weiler

Staff Present: Mr. Nathan Brady, Policy Analyst
Ms. Nancy Skidmore, Committee Secretary

NOTE: A list of visitors and a copy of handouts are filed with the committee minutes.

Chair Madsen called the meeting to order at 3:45 p.m.

MOTION: Sen. Thatcher moved to approve the minutes of the February 4, 2015 and February 5, 2015 meetings. The motion passed unanimously with Sen. Davis absent for the vote.

S.B. 136 Statute of Limitations for Criminal Fines, Fees, and Restitution (*Sen. L. Hillyard*)

Sen. Hillyard explained the bill to the committee.

MOTION: Sen. Thatcher moved to pass the bill out favorably. The motion passed unanimously.

MOTION: Sen. Thatcher moved the bill be placed on the Consent Calendar. The motion passed unanimously.

S.B. 141 Judiciary Amendments (*Sen. L. Hillyard*)

Sen. Hillyard explained the bill to the committee.

MOTION: Sen. Davis moved S.B. 141 be replaced with 1st Sub. S.B. 141. The motion passed unanimously.

Spoke to the bill: Rick Schwermer, Administrative Office of the Courts
Gordon Wright, Bondsman, Utah Bail Bonds

MOTION: Sen. Hillyard moved to amend the bill as follows:

1. Page 2, Line 36:
36 ~~{30-3-11.4, as last amended by Laws of Utah 2014, Chapter 347}~~
2. Page 4, Line 91 through Page 6, Line 154:
91 ~~{Section 3. Section 30-3-11.4 is amended to read:~~
92 ~~30-3-11.4. Mandatory orientation course for divorcing parties — Purpose —~~
93 ~~Curriculum — Exceptions.~~
94 ~~(1) There is established a mandatory divorce orientation course for all parties with~~
95 ~~minor children who file a petition for temporary separation or for a divorce. A couple~~
96 ~~with no~~
97 ~~minor children are not required, but may choose to attend the course. The purpose of the~~
98 ~~course shall be to educate parties about the divorce process and reasonable alternatives.~~
99 ~~(2) A petitioner shall attend a divorce orientation course no more than 60 days after~~
100 ~~filing a petition for divorce.~~
101 ~~(3) With the exception of temporary restraining orders pursuant to Rule 65, Utah~~
102 ~~Rules~~
103 ~~of Civil Procedures, a party may file, but the court may not hear, temporary orders until~~
104 ~~the~~
105 ~~party seeking temporary orders has completed the divorce orientation course.~~
106 ~~(4) The respondent shall attend the divorce orientation course no more than 30 days~~
107 ~~after being served with a petition for divorce.~~
108 ~~(5) The clerk of the court shall provide notice to a petitioner of the requirement for~~
109 ~~the~~
110 ~~course, and information regarding the course shall be included with the petition or~~
111 ~~motion,~~
112 ~~when served on the respondent.~~
113 ~~(6) The divorce orientation course shall be neutral, unbiased, at least one hour in~~
114 ~~duration, and include:~~
115 ~~(a) options available as alternatives to divorce;~~
116 ~~(b) resources available from courts and administrative agencies for resolving~~
117 ~~custody~~
118 ~~and support issues without filing for divorce;~~
119 ~~(c) resources available to improve or strengthen the marriage;~~
120 ~~(d) a discussion of the positive and negative consequences of divorce;~~
121 ~~(e) a discussion of the process of divorce;~~
122 ~~(f) options available for proceeding with a divorce, including:~~
123 ~~(i) mediation;~~
124 ~~(ii) collaborative law; and~~
125 ~~(iii) litigation; and~~
126 ~~(g) a discussion of post-divorce resources.~~
127 ~~(7) The course may be provided in conjunction with the mandatory course for~~
128 ~~divorcing parents required by Section 30-3-11.3.~~
129 ~~(8) The Administrative Office of the Courts shall administer the course pursuant to~~

~~124 Title 63G, Chapter 6a, Utah Procurement Code, through private or public contracts.~~
~~125 (9) The course may be through live instruction, video instruction, or through an~~
~~126 online~~
~~127 provider.~~
~~128 (10) Each participant shall pay the costs of the course, which may not exceed \$30, to~~
~~129 the independent contractor providing the course at the time and place of the course. A~~
~~130 petitioner who attends a live instruction course within 30 days [of] before filing may not~~
~~131 be~~
~~132 charged more than \$15 for the course. A respondent who attends a live instruction~~
~~133 course~~
~~134 within 30 days of being served with a petition for divorce may not be charged more than~~
~~135 \$15~~
~~136 for the course.~~
~~137 (a) A fee of \$5 shall be collected, as part of the course fee paid by each participant,~~
~~138 and~~
~~139 deposited in the Children's Legal Defense Account described in Section 51-9-408.~~
~~140 (b) A participant who is unable to pay the costs of the course may attend without~~
~~141 payment and request an Affidavit of Impecuniosity from the provider to be filed with the~~
~~142 petition or motion. The provider shall be reimbursed for its costs by the Administrative~~
~~143 Office~~
~~144 of the Courts. A petitioner who is later determined not to meet the qualifications for~~
~~145 impecuniosity may be ordered to pay the costs of the course.~~
~~146 (11) Appropriations from the General Fund to the Administrative Office of the~~
~~147 Courts~~
~~148 for the divorce orientation course shall be used to pay the costs of an indigent petitioner~~
~~149 who is~~
~~150 determined to be impecunious as provided in Subsection (10)(b).~~
~~151 (12) The Online Court Assistance Program shall include instructions with the forms~~
~~152 for~~
~~153 divorce which inform the petitioner of the requirement of this section.~~
~~154 (13) Both parties shall attend a divorce orientation course before a divorce decree~~
~~155 may~~
~~156 be entered, unless waived by the court. A certificate of completion constitutes evidence~~
~~157 to the~~
~~158 court of course completion by the parties.~~
~~159 (14) It shall be an affirmative defense in all divorce actions that the divorce~~
~~160 orientation~~
~~161 requirement was not complied with, and the action may not continue until a party has~~
~~162 complied.~~
~~163 (15) The Administrative Office of the Courts shall adopt a program to evaluate the~~
~~164 effectiveness of the mandatory educational course. Progress reports shall be provided if~~
~~165 requested by the Judiciary Interim Committee.]~~

154 Section {4} 3 . Section 77-20-1 is amended to read:

3. Page 8, Line 212:

212 Section {5} 4 . Section 77-22-2.5 is amended to read:

4. *Page 11, Line 311:*
311 Section {**6**} 5 . Section **78A-2-301** is amended to read:
5. *Page 16, Line 482:*
482 Section {**7**} 6 . Section **78A-2-601** is amended to read:
6. *Page 17, Line 499:*
499 Section {**8**} 7 . Section **78A-7-118** is amended to read:
7. *Page 18, Line 541:*
541 Section {**9**} 8 . Section **78A-7-202** is amended to read:
8. *Page 20, Line 598:*
598 Section {**10**} 9 . Section **78B-1-122** is amended to read:

The motion passed unanimously.

MOTION: Sen. Davis moved to pass the bill out favorably. The motion passed unanimously.

MOTION: Sen. Hillyard moved the bill be placed on the Consent Calendar. The motion passed unanimously.

S.B. 150 Driving Under the Influence Sentencing Revisions (*Sen. S. Jenkins*)

Sen. Jenkins explained the bill to the committee.

Spoke to the bill: Linda Hull, Utah Department of Transportation

MOTION: Sen. Escamilla moved to hold the bill. The motion passed unanimously with Sen. Davis and Sen. Hillyard absent for the vote.

MOTION: Sen. Escamilla moved to adjourn. The motion passed unanimously with Sen. Davis and Sen. Hillyard absent for the vote.

Chair Madsen adjourned the meeting at 4:24 p.m.